

Article - Public Utilities

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§18–208.

(a) (1) If the parties have not reached an agreement on or before December 1 on a collective bargaining agreement that would become effective the following July 1, the parties shall jointly appoint a mediator–arbitrator.

(2) If the parties are unable to agree on a mediator–arbitrator, the labor relations administrator shall name the mediator–arbitrator on or before December 7.

(3) Notwithstanding appointment of the mediator–arbitrator, this section does not require commencement of mediation–arbitration before the date stated in subsection (c) of this section.

(b) During the course of the collective bargaining, either party may declare an impasse and request the services of the mediator–arbitrator, or the parties may jointly request the services of a mediator–arbitrator before an impasse is declared.

(c) If the mediator–arbitrator finds in the mediator–arbitrator’s sole discretion that the parties are at a bona fide impasse or on February 1, whichever occurs earlier, the mediator–arbitrator shall direct the parties to submit:

(1) a joint memorandum listing all items to which the parties previously agreed; and

(2) a separate memorandum of each party’s last final offer presented in negotiations on all items to which the parties did not previously agree.

(d) (1) On or before February 10, the mediator–arbitrator shall hold a closed hearing on the parties’ proposals at a time, date, and place selected by the mediator–arbitrator.

(2) Each party shall submit evidence or make oral and written argument in support of the party’s last final offer.

(3) The mediator–arbitrator may not open the hearing to a person who is not a party to the mediation–arbitration.

(e) (1) On or before February 15, the mediator–arbitrator shall issue a report that resolves all items that the parties have not agreed on previously.

(2) In resolving the items not previously agreed on, the mediator–arbitrator may consider the following factors:

(i) past collective bargaining contracts between the parties, including the past bargaining history that led to the agreement or the pre–collective bargaining history of employee wages, hours, benefits, and other working conditions;

(ii) a comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the State and the Washington, D.C. metropolitan area;

(iii) a comparison of wages, hours, benefits, and conditions of employment of similar employees of private employers in Montgomery County and Prince George’s County;

(iv) the public interest and welfare;

(v) the ability of the employer to finance any economic adjustments required under the proposed agreement;

(vi) the effect of any economic adjustments on the standard of public services normally provided by the employer; and

(vii) the annual increase or decrease in consumer prices for all items as reflected in the most recent Consumer Price Index – Urban Wage Earners and Clerical Workers (“CPI–W”) for the Washington Metropolitan Area.

(3) In resolving the items not previously agreed on, the mediator–arbitrator shall consider all items on which the parties agreed before the mediation–arbitration began to be integrated with each offer.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, without ratification by the parties, the offer selected by the mediator–arbitrator, as integrated with the items on which the parties previously agreed, shall be the final agreement between the Commission and the exclusive representative.

(ii) The Commission shall request funds in the Commission’s final budget from the county councils of Montgomery County and Prince George’s County for all economic provisions of the final agreement.

(2) The parties shall execute an agreement incorporating the final agreement, including mediation–arbitration awards and all issues agreed to under this subtitle.

(g) The Commission and the employee organization shall share equally the costs of the mediator–arbitrator’s services.

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